

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In the Patent Application of:

ROBERT C. DART ET AL.

Serial No.: 10/065,722

Filed: November 13, 2002

For: RECLOSABLE LID WITH  
CLOSURE PLUG

Group Art Unit: 3727

Examiner: Robin Annette Hylton

**APPEAL BRIEF**

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This is an Appeal Brief pursuant to 37 C.F.R. §41.37 in support of Applicants' appeal of the third Rejection of the Examiner, mailed January 26, 2006, of claims 3, 9-11, 27-29, 36-40, 44-59, 63, 65-71, 75-77, 80-84, and 88-95. Each of the topics required by 37 C.F.R. §41.37 is presented herewith and is labeled appropriately.

**I. REAL PARTY IN INTEREST**

Dart Container Corporation, having offices in Mason, Michigan ("Dart" or "Assignee") is the real party in interest of the present application. An assignment of all rights in the present application to Dart was executed by the inventors and recorded in the U.S. Patent and Trademark Office at Reel 013313, Frame 0034.

## **II. RELATED APPEALS AND INTERFERENCES**

There are no appeals or interferences related to the present application of which Appellants, Appellants' legal representatives, or Assignee are aware.

## **III. STATUS OF CLAIMS**

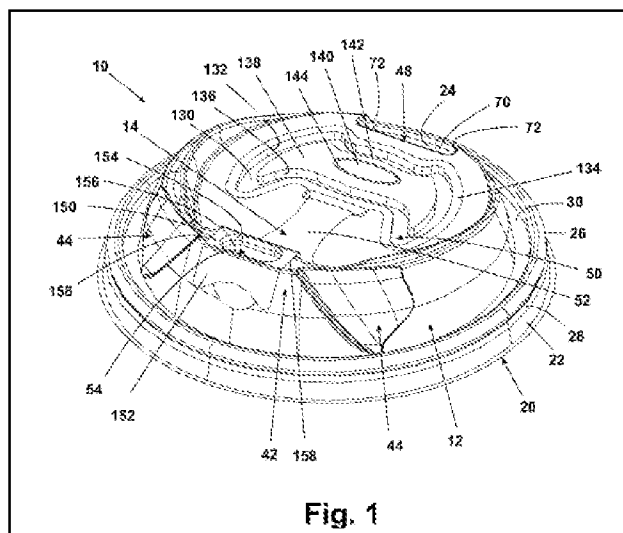
Claims 1-82 were in the application as filed. Claims 12-20 were previously cancelled without prejudice pursuant to a requirement for restriction. Claims 1-2, 8, 21-26, 30, 34, 35, and 60-62 were cancelled without prejudice and claims 83-95 were added. Claims 3, 9-11, 27-29, 36-40, 44-59, 63, 65-71, 75-77, 80-84, and 88-95, which are presented in the Appendix, are pending in the application and have been twice rejected by the Examiner. Claims 4-7, 31-33, 41-43, 64, 72-74, 78, 79, and 85-87 stand objected to. Accordingly, Appellants hereby appeal the rejection of claims 3, 9-11, 27-29, 36-40, 44-59, 63, 65-71, 75-77, 80-84, and 88-95.

## **IV. STATUS OF AMENDMENTS**

No amendments were filed subsequent to the third rejection, and all amendments have been entered.

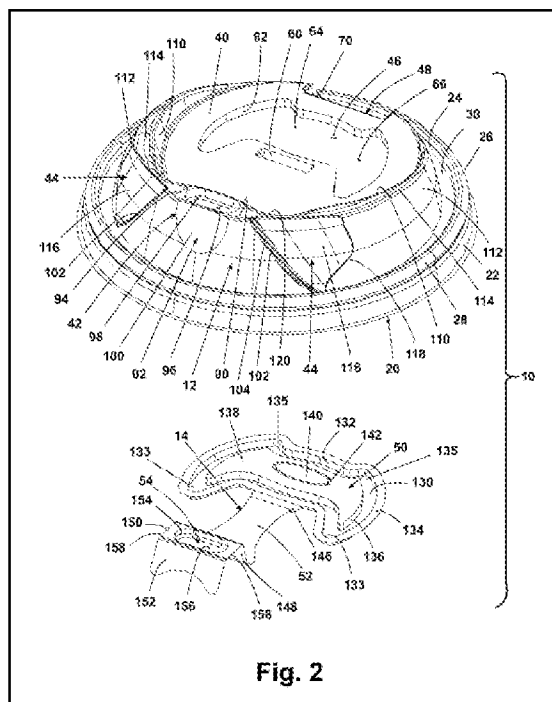
## **V. SUMMARY OF CLAIMED SUBJECT MATTER**

As illustrated in Figure 1 of the Application, a disposable, reclosable lid 10 comprises a dome-shaped cap 12 sized to overlie and substantially cover the open top of a cup. *Application, p. 6, ¶0045, ln. 1-4.*<sup>1</sup>



<sup>1</sup> 37 CFR §41.37(c)(1)(v) requires reference to the specification by page and line number. The Application was filed electronically using a version of the U.S. Patent Office software that did not accommodate line numbers. Thus, references are given by page number, paragraph number, and the line number of the referenced paragraph.

In another embodiment, a disposable, reclosable lid 10 comprises a dome-shaped cap 12 sized to overlie and substantially cover the open top of a cup. The cap 12 comprises an upper surface 40, a drink opening 42, 96, and a mounting recess 46 formed therein. A mounting ring 20 is connected to the cap 12 below the upper surface 40 for mounting the cap 12 to a cup. A tab closure 14 comprises a mounting plug 50 and a drink plug 54 connected by a strap 52. The mounting plug 50 is sized to be received within the mounting recess 46, and the drink plug 54 is sized to be received within the drink opening 42, 96. A user can open and close the lid 12 by removing or inserting the drink plug 54 from the drink opening 42, 96. In an alternate embodiment, the mounting recess 46 has a bottom wall 64 (*p. 7, ¶0047, ln. 5-6*), and the mounting plug 50 has a bottom wall 130 (*p. 8, ¶0051, ln. 1-3*) which is spaced above the mounting recess bottom wall 64 when the mounting plug 54 is received within the mounting recess 46 to define a chamber therebetween (*p. 9, ¶0053, ln. 8-10*)(Figure 6). In another embodiment, the mounting recess 46 and mounting plug 50 each comprise an inset portion, and the strap 52



## VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

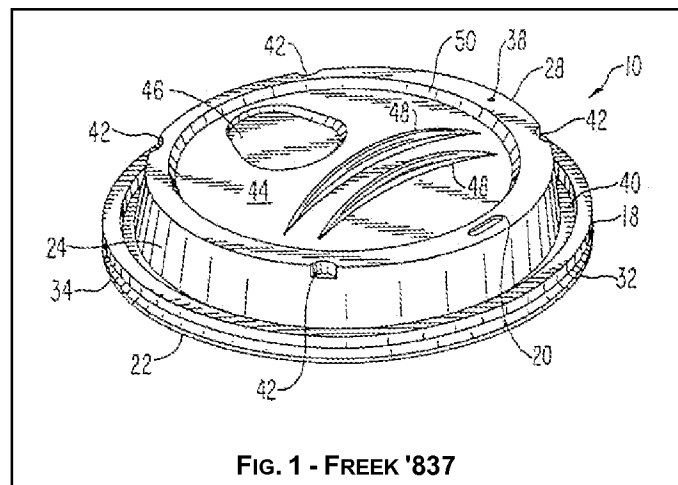
<sup>2</sup> Claims 49-59 stand rejected under 35 U.S.C. §112, ¶2, as allegedly indefinite "for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention." Applicants are not appealing this rejection in this proceeding.

## VII. ARGUMENT

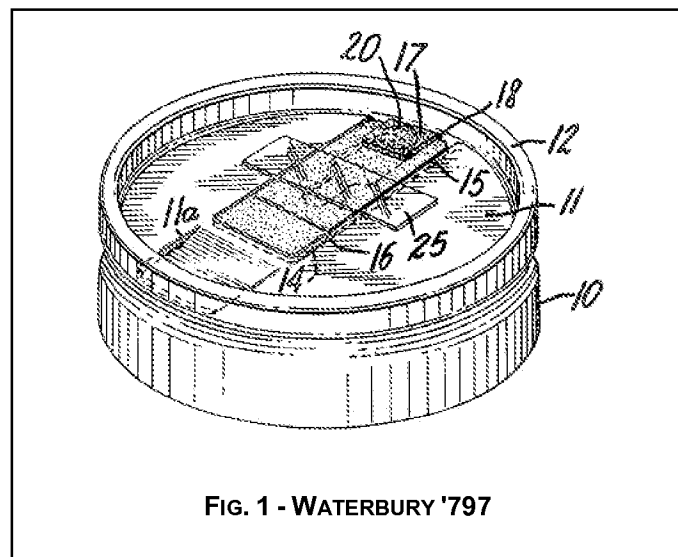
**A. Claims 3, 9-11, 27-29, 36-40, 44-50, 55-59, 63, 65-71, 75-77, 80-84, and 88-95 are not obvious over U.S. Patent No. 5,996,837 to Freek in view of U.S. Patent No. 4,232,797 to Waterbury.**

### **1. Waterbury '797 is nonanalogous art.**

Freek '837 is directed to a lid with a disposable, dome-shaped cap extending from a cup mount. A side wall completely encircles the upper surface of the cap and terminates in a top wall in which a drink opening 20 is formed. Freek '837 has no structure for reclosing the drink opening 20.



Waterbury '797 is directed to a traditional soda can comprising a side wall 10 and an upper lid 11 that is fixedly coupled to the side wall 10 by a chime 12 in the form of rolled or folded-over portions of the lid and side wall 10. The lid 11 is positioned below the chime 12 and the top edge of the side wall 10. A drink opening is formed in the lid and is sealed by an articulated closure comprising a mounting element 14, a closure element 15 connected to the mounting element 14 by a hinge connection 16 and a lift element 17 connected to the closure element by a hinge



connection 18.

Initially, the rejection fails because Waterbury '797 is not analogous art. "In order to rely on a reference as a basis for rejection of an applicant's invention, the reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned." *In re Oetiker*, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992). "A reference is reasonably pertinent if, even though it may be in a different field from that of the inventor's endeavor, it is one which, because of the matter with which it deals, logically would have commended itself to an inventor's attention in considering his problem." *Wang Laboratories Inc. v. Toshiba Corp.*, 993 F.2d 858, 864, 26 USPQ2d 1767 (Fed. Cir. 1993). While Patent Office classification is some evidence of analogy, the similarities and differences in structure and function of the inventions disclosed in the references carry far greater weight. *In re Clay*, 966 F.2d 656, 23 U.S.P.Q.2D (BNA) 1058 (Fed. Cir. 1992).

The first requirement has not been met. Waterbury '797 is in a field which is entirely different from the field of Applicants' invention. Waterbury '797 is directed to the easy-to-open container art having flip-top tab closures of the type commonly used to distribute soda and the like. This is entirely different from the field of art of Applicants' invention, which is directed toward disposable lids for drinking cups.

Waterbury '797 is also not reasonably pertinent to the problem with which Applicants were concerned for several reasons. First, Waterbury '797 is directed to a reclosable soda can, not to a reclosable lid for use on a cup. The closure of a can like Waterbury '797 is a completely different problem than closing a cup with a lid as does Applicants' invention.

Second, the problem to be solved by the Waterbury '797 invention is the problem of having a separable flip-top tab closure which must be discarded after the can has been opened. The problem to be solved by Applicant's invention is providing a disposable, reclosable lid that is easy and inexpensive to manufacture, preferably by using a thermoforming process, and that can be opened to dispense a beverage and closed to effectively seal the container against spillage

while still being able to maintain a tight seal after multiple cycles between the open and closed positions. Thus, Waterbury '797 is focused on eliminating a disposable tab and Applicant's invention is focused on a disposable lid with a reclosable tab. Thus, the problems being solved are antithetical.

Third, the structure and function of the Waterbury '797 invention and Applicants' invention are significantly different and highlight the different problems related to closing a drink opening in a can as compared to a lid for closing the top of a cup. The Waterbury '797 invention comprises a closure assembly associated with an opening in a circular top wall of a metal can spaced radially inwardly from a chine or raised lip extending circumferentially around the metal top wall. The closure assembly is made of plastic that is thermoplastically attached to the lid by heating a portion of the tab and letting it flow into openings in the lid. *See, col. 4, ln 40-52.* This type of thermoplastic assembly of the tab to the metal top is not related to solving the problem of creating a disposable, reclosable lid. The use of a metal top in combination with a thermoplastically attached closure assembly is not suitable for a disposable lid from both a material cost perspective and an assembly time perspective. For disposable lids, metal is not a preferred material because of its relative cost and weight. Contemporary disposable lids must be as light in weight as possible to reduce shipping costs, which is a major portion of the lid cost. The metal top is thus not suitable for a disposable lid. As such, the Waterbury '797 invention is different in structure and function because it is not directed to solving the same problem.

Thus, Waterbury '797 is nonanalogous art, the combination is improper as made, and the rejection based on the improper combination should be overruled.

**2. The combination of Freek '837 and Waterbury '797 is improper, which removes the basis for the obviousness rejection.**

Assuming, *arguendo*, that Waterbury '797 is analogous art, the combination is still not tenable as there is no teaching or suggestion to make the combination.

The following rules for combining prior art references for a finding of obviousness apply to the grounds of rejection in this case.

A claimed invention is unpatentable if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art....The ultimate determination of whether an invention would have been obvious under 35 U.S.C. §103(a) is **a legal conclusion based on underlying findings of fact.**<sup>3</sup>

A critical step in analyzing the patentability of claims pursuant to section 103(a) is casting the mind back to the time of invention, to consider the thinking of one of ordinary skill in the art, guided only by the prior art references and the then-accepted wisdom in the field....Close adherence to this methodology is especially important in cases where the very ease with which the invention can be understood may prompt one “to fall victim to the insidious effect of a hindsight syndrome wherein that which only the invention taught is used against its teacher.”

Most if not all inventions arise from a combination of old elements....Thus, every element of a claimed invention may often be found in the prior art....However, **identification in the prior art of each individual part claimed is insufficient to defeat patentability of the whole claimed invention....**Rather, to establish obviousness based on a combination of the elements disclosed in the prior art, **there must be some motivation, suggestion or teaching of the desirability of making the specific combination** that was made by the applicant....Even when obviousness is based on a single prior art reference, there must be a showing of a suggestion or motivation to modify the teachings of that reference.

The motivation, suggestion or teaching may come explicitly from statements in the prior art, the knowledge of one of ordinary skill in the art, or, in some cases the nature of the problem to be solved....In addition, the teaching, motivation or suggestion may be implicit from the prior art as a whole, rather than expressly stated in the references....The test for an implicit showing is what the combined teachings, knowledge

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<sup>3</sup> The underlying factual inquiries include (1) the scope and content of the prior art; (2) the level of ordinary skill in the prior art; and (3) the differences between the claimed invention and the prior art. *Graham v. John Deere Co.*, 383 U.S. 1, 17, 15 L. Ed. 2d 545, 86 S. Ct. 684 (1966).



of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to those of ordinary skill in the art....Whether the Patent Office Examiner relies on an express or an implicit showing, **the Examiner must provide particular findings related thereto....Broad conclusory statements standing alone are not “evidence.”**

*In Re Werner Kotzab*, 217 F.3d 1365; 55 U.S.P.Q.2d (BNA) 1313 (Fed. Cir. 2000) (citations omitted).

The Examiner has failed to identify any motivation, suggestion, or teaching of the desirability of combining Freek ‘837 with Waterbury ‘797 to arrive at Applicants' invention. There has been no statement identified in the prior art, there has been no discussion of the knowledge of one of ordinary skill in the art or the nature of the problem to be solved, there has been no identification of what the combined teachings, the knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to one of ordinary skill in the art as required for a showing of motivation. The Examiner has failed to provide any particular findings related to any motivation, suggestion, or teaching of the desirability of combining Freek ‘837 with Waterbury ‘797. Rather, the Examiner has simply relied upon “broad conclusory statements standing alone,” which can only lead to the conclusion that the Examiner is simply relying on impermissible hindsight reconstruction of Applicants' invention.

Most notably, Freek ‘837 discloses a non-reclosable lid. It is an inescapable logical flaw in the combination that Freek ‘837 does not disclose a reclosable lid. As Freek ‘837 does not disclose a reclosable lid, how there can be any teaching or suggestion to turn Freek ‘837 into a reclosable lid as suggested in the Office action. As such, there is no motivation, suggestion, or teaching for adding the reclosable closure of Waterbury ‘797 to Freek ‘837. In fact, Freek ‘837 teaches away from making such a combination.

The Office action mischaracterizes the teaching of Freek ‘837 in an attempt to force Freek ‘837 into disclosing a reclosable lid. The Office action asserts that Freek ‘837 discloses a “plug” by referring to the language at column 3, lines 61-65, which states: “While the preformed

opening 20 is illustrated as being merely an opening in the lid, the opening 20 may include a cover or plug which may be readily removed by the consumer prior to consumption of the contents of the cup.” This disclosure in Freek ‘837 is not to a reclosable closure tab. That is, the closure disclosed in Freek ‘837 is nothing more than a one-use closure or seal that can be removed from the opening to provide access to the contents. Freek ‘837 expressly states that the closure is removed by the consumer prior to consumption of the contents. When the closure in Freek ‘837 is removed, the lid of Freek ‘837 remains permanently opened.

As Freek ‘837 does not disclose, and is entirely unconcerned with, a reclosable tab, there is no motivation, teaching, or suggestion to combine the articulated tab of Waterbury ‘797 with Freek ‘837. As Freek ‘837 contemplates a permanently opened container once the closure is removed, Freek ‘837 teaches against adding a reclosable closure. Therefore, there is no teaching or suggestion to make the combination as asserted in the Office action.

It is respectfully submitted that the Office Action improperly characterizes terms used in the claims in an attempt to force the combination of Freek ‘837 and Waterbury ‘797 to reach the claims. In the claims at issue, the closure tab is defined as having a mounting plug and a drink plug, which are connected by a strap. The mounting plug is used to affix the closure tab to the lid and the drink plug is used to selectively close the drink opening. Thus, the plugs as claimed are not equated with the entire closure tab, but are part of the closure tab. The Office action improperly equates the term “plug” with the entire closure tab in an attempt to force the combination. Specifically, the Office action identifies the closure in Freek ‘837 as a plug, and then equates the entire articulated closure of Waterbury ‘797 with the plug in an attempt to force the logical replacement of the “plug” of Waterbury ‘797 with the “plug” of Freek ‘837. However, such a use of the term “plug” mischaracterizes its meaning in Freek ‘837 and/or misdescribes the closure of Waterbury ‘797. The use of the term “plug” to describe both a plug and the entire closure tab in forming the bases for combining the references is not supported by the references themselves or the claims at issue. Indeed, it smacks of a hindsight reconstruction attempt to force a combination of references to the claims at issue by twisting the meaning of the term “plug.” For this reason, the combination is not sustainable.

Furthermore, the Examiner attempts to justify the combination by stating that "it would have been obvious to one of ordinary skill in the art at the time the invention was made to... apply the teaching of a tab closure as taught by Waterbury and to make it thin enough to accommodate the purpose of the nose recess of Freek for those not wishing to remove the plug." However, a nose recess is not a part of Applicants' invention. None of the claims refer to a nose recess, and there is no reference to a nose recess in the specification. Thus, the Examiner's attempted justification is without merit and cannot support the combination.

Finally, "The mere fact that a worker in the art could rearrange the parts of the reference device to meet the terms of the claims on appeal is not by itself sufficient to support a finding of obviousness. The prior art must provide a motivation or reason for the worker in the art, without the benefit of appellant's specification, to make the necessary changes in the reference device." *Ex parte Chicago Rawhide Mfg. Co.*, 223 USPQ 351, 353 (Bd. Pat. App. & Inter. 1984). No meaningful motivation or reason has been offered for the combination, as discussed above. Thus, the Examiner's rationale for concluding that Freek '837 in view of Waterbury '797 renders claims 3, 9-11, 27-29, 36-40, 44-50, 55-59, 63, 65-71, 75-77, 80-84, and 88-95 obvious cannot be sustained.

**3. The combination of Freek '837 and Waterbury '797 does not reach the claimed invention.**

Assuming, *arguendo*, that the combination is tenable, it still does not teach the claimed invention. If the articulated closure of Waterbury '797 were combined with the lid of Freek '837 as suggested in the Office action, only the closure element 15 of Waterbury '797 is needed to close the drink opening of Freek '837 as described in the cited portion of Freek '837. In other words, only the portion of the Waterbury '797 closure that functions as a plug would need to be added to Freek '837. Thus, Waterbury '797 would simply give structure to the closure suggested in passing, but not described or illustrated, in Freek '837. The combination would not include or require the addition to Freek '837 of the complete closure of Waterbury '797 since the mounting element 14 and hinge connection 16 are not required by the closure recited in Freek '837.

In short, the combination of Freek '837 and Waterbury '797 would result in the Freek '837 lid with a closure shaped like the closure element 15 of Waterbury '797. Such a closure would be at most a one-use closure in accordance with Freek '837, and not reclosable.

Independent claims 83, 84, 88, and 89 are not obvious in view of the combination. Each of claims 83, 84, 88, and 89 calls for a tab closure comprising a mounting plug and a drink plug connected by a strap, the mounting plug sized to be received within the mounting recess, and the drink plug sized to be received within the drink opening wherein the user can open and close the lid by removing or inserting the drink plug from the drink opening. The closure tab as claimed is for a tab that is affixed to the lid and which can be selectively moved to repeatedly close the drink opening. The alleged combination does not teach a disposable, reclosable lid comprising the closure tab as claimed. Therefore, the independent claims are patentable over the alleged combination because the combination does not disclose an entire element of the claims.

Furthermore, claim 84 additionally calls for a mounting recess having a bottom wall and a mounting plug having a bottom wall which is spaced above the mounting recess bottom wall when the mounting plug is received within the mounting recess to thereby define a chamber between the mounting plug bottom wall and the mounting recess bottom wall. The alleged combination does not teach such a chamber.

Initially, neither reference discloses a mounting recess or a mounting plug as called for in claim 84. Moreover, neither reference discloses the chamber called for in claim 84. The Examiner asserts that "It is noted that a chamber is formed between the closure plug and mounting recess regardless of the depth of the chamber." However, there is no justification for this statement. The chamber called for in claim 84 is unrelated to a closure plug; it is defined by a mounting plug and a mounting recess. The Examiner attempts to compensate for the absence in either reference of any disclosure of the chamber of claim 84 by simply asserting that a chamber is formed "between the closure plug and the mounting recess regardless of the depth of the chamber." Not only is this statement nonsensical, it is entirely unsupported. Thus, for this reason alone, claim 84 is patentable over the alleged combination.

Claims 3, 9-11, 27-29, 36-40, 44-50, 55-59, 63, 65-71, 75-77, 80-82, and 90-95 depend, directly or indirectly, from independent claims 83 or 89, and, for the same reasons, are patentable. However, the dependent claims will be individually addressed where warranted with respect to the combination.

#### **Claims 27-29**

Claims 27-29 depend ultimately from claim 89 and, in addition to the elements of claim 89, call for the peripheral walls of the mounting plug and the mounting recess to have negative drafts. Neither Freek '837 nor Waterbury '797 discloses a mounting plug or a mounting recess, let alone a mounting plug and a mounting recess having negative drafts. Thus, claims 27-29 are independently patentable over the alleged combination.

#### **Claims 40 and 71**

Claims 40 and 71 depend from claims 89 and 83, respectively, and, in addition to the elements of claims 89 and 83, call for a chamber defined by the spacing between the mounting recess bottom wall and the mounting plug bottom wall. As discussed above with respect to claim 84, neither Freek '837 nor Waterbury '797 discloses the chamber called for in claims 40 and 71 because neither reference discloses a mounting recess or a mounting plug. Thus, claims 40 and 71 are independently patentable over the alleged combination.

#### **CONCLUSION**

In view of the foregoing, it is submitted that the continuing rejection of claims 3, 9-11, 27-29, 36-40, 44-50, 55-59, 63, 65-71, 75-77, 80-84, and 88-95 is improper and should not be sustained. Therefore, a reversal of the rejection of claims 3, 9-11, 27-29, 36-40, 44-50, 55-59, 63, 65-71, 75-77, 80-84, and 88-95 is respectfully requested.

Respectfully submitted,  
ROBERT C. DART ET AL.

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Filed: 11/13/2002  
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Examiner: Robin Annette Hylton  
Group Art Unit: 3727

Dated: June 26, 2006

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### **VIII. CLAIMS APPENDIX**

1-2 Canceled

3. The disposable, reclosable lid according to claim 89 wherein the drink plug has a portion with a dimension greater than or equal to the drink opening such that the drink plug snap-fits within the drink opening.

4. The disposable, reclosable lid according to claim 89 wherein the drink opening comprises a well and the drink plug is received within the well when the lid is closed.

5. The disposable, reclosable lid according to claim 4 wherein the well and the drink plug are sized such that the drink plug is press-fit within the well.

6. The disposable, reclosable lid according to claim 5 wherein the well comprises a peripheral wall extending interiorly from the drink opening, and the drink plug has a peripheral wall that is complementary to the well peripheral wall such that at least a portion of the well and drink plug peripheral walls contact when the drink plug is inserted in the well for the press-fit connection.

7. The disposable, reclosable lid according to claim 6 wherein the well further comprises a bottom wall extending from the peripheral wall and in which is formed a lower opening, and the drink plug has a complementary bottom wall from which the drink plug peripheral wall extends, and the well and drink plug bottom walls cooperate to limit the insertion of the drink plug into the well.

8. Canceled

9. The disposable, reclosable lid according to claim 89 wherein the drink plug holder comprises at least one finger extending from one of the cap and mounting ring and overlying a portion of the tab closure to hold the drink plug in a stored position.

10. The disposable, reclosable lid according to claim 89 wherein the drink plug holder comprises a mounting recess in the cap and which is sized to receive the drink plug and hold the drink plug in a stored position.

11. The disposable, reclosable lid according to claim 89 wherein the drink plug holder comprises a projection on one of the cap and tab closure and a complementary mounting recess on the other of the cap and tab closure such that the projection is received within the mounting recess and holds the drink plug in a stored position.

12-26 Canceled

27. The disposable, reclosable lid according to claim 95 wherein each of the peripheral walls has a negative draft.

28. The disposable, reclosable lid according to claim 27 wherein the peripheral walls have the same draft.

29. The disposable, reclosable lid according to claim 28 wherein the peripheral walls have different drafts.

30. Canceled

31. The disposable, reclosable lid according to claim 94 wherein the drink opening comprises a well and the drink plug is received within the well when the lid is closed.

32. The disposable, reclosable lid according to claim 31 wherein the well and the drink plug are sized such that the drink plug is press-fit within the well.

33. The disposable, reclosable lid according to claim 32 wherein the well comprises a peripheral wall extending interiorly from the drink opening, and the drink plug has a peripheral wall that is complementary to the well peripheral wall such that at least a portion of the well and drink plug peripheral walls contact when the drink plug is inserted in the well for the press-fit



connection.

34-35 Canceled

36. The disposable, reclosable lid according to claim 89 wherein the tab closure further comprises a hinge connecting the mounting plug to the strap.

37. The disposable, reclosable lid according to claim 89 wherein the drink plug includes a lift tab for aid in the removal of the drink plug from the drink opening.

38. The disposable, reclosable lid according to claim 89 wherein the periphery of the mounting plug is greater than or equal to the periphery of the mounting recess such that the mounting plug is snap-fit within the mounting recess.

39. The disposable, reclosable lid according to claim 89 wherein the mounting recess is located on the cap and the mounting plug is located on the tab closure.

40. The disposable, reclosable lid according to claim 39 wherein the mounting recess has a bottom wall and the mounting plug has a bottom wall, which is spaced above the mounting recess bottom wall when the mounting plug is received within the mounting recess to define a chamber therebetween.

41. The disposable, reclosable lid according to claim 40 and further comprising a vent opening formed in the mounting recess bottom wall and fluidly connected to the chamber.

42. The disposable, reclosable lid according to claim 41 wherein the mounting plug has a vent opening fluidly connected to the chamber.

43. The disposable, reclosable lid according to claim 42 wherein the mounting plug vent opening is sized such that liquid cannot span the vent opening through the inherent surface tension of the liquid.

44. The disposable, reclosable lid according to claim 39 wherein the mounting recess and

mounting plug have corresponding inset portions and the strap connects to the mounting plug at the inset portion.

45. The disposable, reclosable lid according to claim 44 and further comprising a hinge connecting the strap to the mounting plug.

46. The disposable, reclosable lid according to claim 44 wherein the mounting recess and mounting plug have complementary peripheral walls that abut each other when the mounting plug is received within the mounting recess.

47. The disposable, reclosable lid according to claim 46 wherein the mounting plug comprises a peripheral lip, the mounting recess comprises a complementary peripheral ledge, and the lip rests on the ledge when the mounting plug is received within the mounting recess.

48. The disposable, reclosable lid according to claim 39 wherein the cap is dome-shaped and comprises an upper surface located above the mounting ring and in which the mounting recess is formed.

49. The disposable, reclosable lid according to claim 48 wherein the cap further comprises a wall at least partially encircling the upper surface and terminating in a top edge in which the drink opening is located.

50. The disposable, reclosable lid according to claim 49 wherein the drink opening is at a higher elevation than the mounting recess.

51. The disposable, reclosable lid according to claim 49 wherein the width of the wall is reduced at the opposite ends of the drink opening.

52. The disposable, reclosable lid according to claim 49 wherein the cap further comprises a drink plug holder for holding the drink plug in a stored position when the lid is in the open position.

53. The disposable, reclosable lid according to claim 52 wherein the drink plug holder comprises a mounting recess in the cap that is sized to receive the drink plug and hold the drink plug in a stored position.

54. The disposable, reclosable lid according to claim 53 wherein the drink plug holder further comprises at least one finger extending into the drink plug holder mounting recess and overlying a portion of the tab closure to hold the drink plug in a stored position.

55. The disposable, reclosable lid according to claim 49 wherein the strap connects the drink plug to the mounting plug.

56. The disposable, reclosable lid according to claim 55 wherein the tab closure further comprises a hinge connecting the mounting plug to the strap.

57. The disposable, reclosable lid according to claim 56 wherein the drink plug includes a lift tab for aid in the removal of the drink plug from the drink opening.

58. The disposable, reclosable lid according to claim 57 wherein the periphery of the mounting plug is greater than or equal to the periphery of the mounting recess such that the mounting plug is snap-fit within the mounting recess.

59. The disposable, reclosable lid according to claim 58 wherein the mounting recess is located on the cap and the mounting plug is located on the tab closure.

60-62 Canceled

63. The disposable, reclosable lid according to claim 83 wherein the drink opening is at a higher elevation than the mounting recess.

64. The disposable, reclosable lid according to claim 83 wherein the width of the top wall is reduced at the opposite ends of the drink opening.

65. The disposable, reclosable lid according to claim 83 wherein the cap further comprises a

drink plug holder for holding the drink plug in a stored position when the lid is in the open position.

66. The disposable, reclosable lid according to claim 65 wherein the drink plug holder comprises a recess in the cap that is sized to receive the drink plug and hold the drink plug in a stored position.

67. The disposable, reclosable lid according to claim 66 wherein the drink plug holder further comprises at least one finger extending into the drink plug holder recess and overlying a portion of the tab closure to hold the drink plug in a stored position.

68. The disposable, reclosable lid according to claim 83 wherein the tab closure further comprises a hinge connecting the mounting plug to the strap.

69. The disposable, reclosable lid according to claim 83 wherein the drink plug includes a lift tab for aid in the removal of the drink plug from the drink opening.

70. The disposable, reclosable lid according to claim 83 wherein the periphery of the mounting plug is greater than or equal to the periphery of the mounting recess such that the mounting plug is snap-fit within the mounting recess.

71. The disposable, reclosable lid according to claim 83 wherein the mounting recess has a bottom wall and the mounting plug has a bottom wall, which is spaced above the mounting recess bottom wall when the mounting plug is received within the mounting recess to define a chamber therebetween.

72. The disposable, reclosable lid according to claim 71 and further comprising a vent opening formed in the mounting recess bottom wall and fluidly connected to the chamber.

73. The disposable, reclosable lid according to claim 72 wherein the mounting plug has a vent opening fluidly connected to the chamber.

74. The disposable, reclosable lid according to claim 73 wherein the mounting plug vent opening is sized such that liquid cannot span the opening through the inherent surface tension of the liquid.

75. The disposable, reclosable lid according to claim 83 wherein the mounting recess and mounting plug have corresponding inset portions and the strap connects to the mounting plug at the inset portion.

76. The disposable, reclosable lid according to claim 83 wherein the cap, mounting ring, and tab are formed from a plastic sheet and have a substantially uniform thickness.

77. The disposable, reclosable lid according to claim 83 wherein the drink plug has a portion with a dimension greater than or equal to the drink opening such that the drink plug snap-fits within the drink opening.

78. The disposable, reclosable lid according to claim 83 wherein the drink opening comprises a well and the drink plug is received within the well when the lid is closed.

79. The disposable, reclosable lid according to claim 78 wherein the well and the drink plug are sized such that the drink plug is press-fit within the well.

80. The disposable, reclosable lid according to claim 83 wherein the tab is removably coupled to the cap.

81. The disposable, reclosable lid according to claim 83 wherein the mounting ring defines a peripheral channel sized to receive the rim of a cup.

82. The disposable, reclosable lid according to claim 89 wherein the mounting ring defines a peripheral channel sized to receive the rim of a cup.

83. A disposable, reclosable lid comprising:  
a dome-shaped cap sized to overlies and substantially cover the open top of a cup,

the cap comprising a mounting recess, an upper surface, a side wall at least partially encircling the upper surface and terminating in a top wall, and a drink opening located in the top wall;

a mounting ring connected to the cap for mounting the cap to a cup; and

a tab closure comprising a mounting plug and a drink plug connected by a strap, the mounting plug sized to be received within the mounting recess, and the drink plug sized to be received within the drink opening wherein the user can open and close the lid by removing or inserting the drink plug from the drink opening.

84. A disposable, reclosable lid comprising:

a dome-shaped cap sized to overlie and substantially cover the open top of a cup, the cap comprising an upper surface, a drink opening, and a mounting recess formed therein;

a mounting ring connected to the cap below the upper surface and for mounting the cap to a cup; and

a tab closure comprising a mounting plug and a drink plug connected by a strap, the mounting plug sized to be received within the mounting recess, and the drink plug sized to be received within the drink opening wherein the user can open and close the lid by removing or inserting the drink plug from the drink opening;

wherein the mounting recess has a bottom wall and the mounting plug has a bottom wall, which is spaced above the mounting recess bottom wall when the mounting plug is received within the mounting recess to define a chamber therebetween.

85. The disposable, reclosable lid according to claim 84 and further comprising a vent opening formed in the mounting recess bottom wall and fluidly connected to the chamber.

86. The disposable, reclosable lid according to claim 85 wherein the mounting plug has a vent opening fluidly connected to the chamber.

87. The disposable, reclosable lid according to claim 86 wherein the mounting plug vent

opening is sized such that liquid cannot span the opening through the inherent surface tension of the liquid.

88. A disposable, reclosable lid comprising:

- a dome-shaped cap sized to overlie and substantially cover the open top of a cup, the cap comprising an upper surface, a drink opening, and a mounting recess formed therein;

- a mounting ring connected to the cap below the upper surface and for mounting the cap to a cup; and

- a tab closure comprising a mounting plug and a drink plug connected by a strap, the mounting plug sized to be received within the mounting recess, and the drink plug sized to be received within the drink opening wherein the user can open and close the lid by removing or inserting the drink plug from the drink opening;

- wherein the mounting recess and mounting plug each comprise an inset portion, and the strap connects to the inset portion of the mounting plug.

89. A disposable, reclosable lid comprising:

- a cap sized to overlie and substantially cover the open top of a cup, the cap comprising a mounting recess and a drink opening;

- a mounting ring connected to the cap for mounting the cap to a cup;

- a tab closure comprising a mounting plug and a drink plug connected by a strap, the mounting plug is sized to be received within the mounting recess to mount the tab closure to the cap, and the drink plug is sized to be received within the drink opening;

- a drink plug holder for holding the drink plug in a stored position when the lid is in the open position; and

- the cap and tab closure are thermoformed from a common plastic sheet;

- wherein an easy to assemble reclosable lid is provided wherein the user can open and close the lid by removing or inserting the drink plug from the drink opening while the tab closure remains mounted to the cap.

90. The disposable, reclosable lid according to claim 89 wherein the tab closure is mechanically coupled to the cap by the mounting plug being received within the mounting recess.

91. The disposable, reclosable lid according to claim 89 wherein the mounting plug is removably coupled to the mounting recess.

92. The disposable, reclosable lid according to claim 89 wherein one of the drink plug and mounting plug is received within the corresponding drink opening and mounting recess in one of a press-fit relationship and snap-fit relationship.

93. The disposable, reclosable lid according to claim 92 wherein the other of the drink plug and mounting plug is received within the corresponding drink opening and mounting recess in one of a press-fit relationship and snap-fit relationship.

94. The disposable, reclosable lid according to claim 93 wherein the mounting recess comprises a peripheral rim defining an open top for the mounting recess, and the mounting plug comprises a projection having a portion with a dimension greater than or equal to the open top to form the press-fit relationship when the projection is received within the open top.

95. The disposable, reclosable lid according to claim 94 wherein the mounting plug has a peripheral wall and the mounting recess has a peripheral wall, wherein at least a portion of the peripheral walls abut when the mounting plug is received within the mounting recess to form the press-fit relationship.



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**IX. EVIDENCE APPENDIX**

No evidence has been entered by the Examiner or Appellants into the record.

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**X. RELATED PROCEEDINGS APPENDIX**

There being no decision rendered by a court or the Board in any related proceeding, none is listed here.